

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

PATRICK B. THOMAS, #649727 §
V. § CIVIL ACTION NO. G-05-103
DOUG DRETKE, DIRECTOR, §
TEXAS DEPARTMENT OF CRIMINAL §
JUSTICE, CORRECTIONS §
INSTITUTIONS DIVISION §

ORDER OF DISMISSAL

Before the Court for its Order of Acceptance is a Report and Recommendation of the Magistrate Judge, entered on April 13, 2005, which recommends that the Application for Writ of Habeas Corpus of Patrick B. Thomas be dismissed with prejudice. Thomas has filed objections to the Report and Recommendation, complaining that he has not consented to his case being tried before the Magistrate Judge; and, re-asserting his belief that his liberty interest in parole was violated during the course of a disciplinary hearing.

It is standard operating procedure in the Galveston Division for all pretrial matters in cases filed by prison inmates to be handled by the Magistrate Judge. This does not infringe on Plaintiff's right to a trial before the United States District Judge; however, in the instant case, Petitioner's case will not reach the trial stage as preliminary screening reveals that Petitioner's claims are not available for habeas relief. As correctly stated by the Magistrate Judge, the nature of Petitioner's underlying conviction renders him ineligible for mandatory release. As such, Petitioner is ineligible for the protections afforded by the Due Process Clause. To the extent that Petitioner's parole date may be

extended due to the allegedly unjust disciplinary case, Petitioner has no constitutional right to parole and, therefore, no claim for federal habeas relief.

Having given this matter *de novo* review as required by 28 U.S.C. §636 (b)(1)(C), this Court finds that the Report and Recommendation of the Magistrate Judge is a well reasoned and correct application of relevant law and it is, hereby, **ACCEPTED** in its entirety and incorporated by reference herein.

It is **ORDERED** that the Application for Writ of Habeas Corpus of Patrick B. Thomas is **DISMISSED** with prejudice.

DONE at Galveston, Texas, this the _____ day of _____, 2005.



Samuel B. Kent
United States District Judge